

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JOEY KIMBROUGH,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:22-cv-01993-TWP-MJD
)	
AMERICAN EXPRESS COMPANY, aka)	
AMERICAN EXPRESS NATIONAL BANK,)	
)	
Defendant.)	

Entry Denying Requests to Proceed on Appeal *In Forma Pauperis*

This matter is before the Court on *pro se* Plaintiff Joey Kimbrough's ("Plaintiff") Motion to Proceed in Forma Pauperis on appeal in appeal case No. 23-2911, (Dkt. 70) and in appeal case No. 23-2912 (Dkt. 71). For the reasons stated below, the Motions are denied.

On September 29, 2023, Kimbrough filed his first notice of appeal of Dkt. 48, the Order on Motion for Sanctions (Dkt. 53); and on October 1, 2023 filed a second notice of appeal of Dkt. 49, the Order on Motion to Compel Arbitration (Dkt. 56). Kimbrough's Motions to Proceed in Forma Pauperis on appeal are duplicates. Each Motion states, "I am unable to pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee at this time." (Dkt. 70 at 2, Dkt. 71 at 2). In his Affidavit's Accompanying Motion for Permission to Appeal in Forma Pauperis (Dkt. 70-1, Dkt. 71-1), Kimbrough affirms that he has a joint savings account with a balance of \$547.01 and a joint checking account with a balance of \$5,288.29, for a total of \$5,835.30 in financial institutions. *Id.* at 3. He further affirms that his wife's average gross monthly income for the past 12 months was \$3,500.00; however, the amount expected "next month" is \$7,500.00. *Id.* The couple's combined monthly expenses are \$4,593.83. *Id.* at 5-6. Kimbrough also affirms that

he does not expect a change in monthly income or expenses or in assets or liabilities during the next 12 months. *Id.* at 6.

In light of these facts sworn to by Kimbrough, he does not meet the standards for in forma pauperis status. When the district court denies a party's motion for leave to proceed in forma pauperis on appeal,

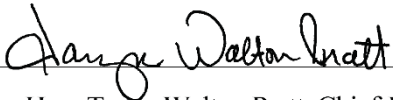
the party may file a motion in the court of appeals. A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

Federal Rule of Appellate Procedure 24(a)(5)

For the reasons explained above, Kimbrough's Motions to Proceed in Forma Pauperis on appeal (Dkt. 70 and Dkt.71) are **DENIED**, because he has sufficient income and/or resources to prepay the appellate filing fee(s).

SO ORDERED.

Date: 11/6/2023


Hon. Tanya Walton Pratt, Chief Judge
United States District Court
Southern District of Indiana

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